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7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 ROGER BROWN,

15 Defendant.
16

Case No. 1:19-po-00016-SAB

STIPULATION TO TEMPORARILY
POSTPONE IN-PATIENT TREATMENT;
AND ORDER

DATE: November 19, 2020
TIME: 10:00 a.m.
JUDGE: Hon. Stanley A. Boone

17 **IT IS HEREBY STIPULATED**, by and between parties, through their respective counsel,
18 Special Assistant United States Attorney William Taylor, counsel for plaintiff, and Assistant
19 Federal Defender Matthew Lemke, counsel for defendant Roger Brown, that this Court modify the
20 conditions of Roger Brown's probation by temporarily postponing his admittance to an in-patient
21 substance abuse treatment program until Mr. Brown's next status hearing, currently set for
22 November 19, 2020. On that date, counsel anticipates presenting the Court with a detailed proposal
23 for Mr. Brown to satisfy the terms of his probation with outpatient substance abuse treatment.

24 The parties stipulate as follows:

25 1. On January 16, 2020, this Court sentenced Roger Brown to a term of
26 unsupervised probation, set to expire on January 15, 2021. ECF No. 12. As a condition of
27 probation, the Court ordered Mr. Brown to "participate, attend, and complete an inpatient drug
28 treatment program." *Id.* The Court ordered Mr. Brown to begin treatment by March 30, 2020.

Id.

2. Since Mr. Brown was sentenced, the coronavirus outbreak has become a global pandemic.¹ COVID-19 is an illness caused by a new coronavirus that has spread throughout the world.²

3. Symptoms of COVID-19 can be “severe in older individuals or those with certain medical conditions, including persons with asthma, lung disease, heart diseases, diabetes, chronic kidney disease, liver disease or those who are immunocompromised.”^{3 4} Besides death, COVID-19 can cause serious, potentially permanent, damage to lung tissue, and can require extensive use of a ventilator.⁵

4. According to the Centers for Disease Control and Prevention (“CDC”), “[l]imiting face-to-face contact with others is the best way to reduce the spread” of COVID-19.⁶ This “social distancing” is especially important for people who are at a higher risk of getting very sick.⁷

¹ World Health Organization Director General declares COVID-19 outbreak a pandemic, WORLD HEALTH ORGANIZATION, <<https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>> (last accessed on October 29, 2020)

² What you should know about COVID-19 to protect yourself and others, CENTER FOR DISEASE CONTROL AND PREVENTION, <<https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-factsheet.pdf>> (last accessed on October 29, 2020)

³ People Who Are at Higher Risk of Severe Illness, CENTERS FOR DISEASE CONTROL AND PREVENTION, <<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>> (last accessed October 29, 2020).

⁴ *Id.*

⁵ Healy, Melissa. Coronavirus infection may cause lasting damage throughout the body, doctors fear. LA Times, (April 10, 2020) < <https://www.latimes.com/science/story/2020-04-10/coronavirus-infection-can-do-lasting-damage-to-the-heart-liver>> (last accessed on October 29, 2020)

⁶ Social Distancing, Quarantine, and Isolation, CENTERS FOR DISEASE CONTROL AND PREVENTION, <<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>> (last accessed October 29, 2020)

⁷ How to Protect Yourself & Others, Centers for Disease Control and Prevention, CENTERS FOR DISEASE CONTROL AND PREVENTION, <<https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html>> (recommending maintaining at least six feet of distance from other persons at all times and noting that “keeping distance from others is especially important for people who are at higher risk of getting very sick”).

1 5. Mr. Brown is 65-year-old man with a history of health concerns that make him
2 particularly vulnerable to COVID-19.

3 6. Given the state of the pandemic, the forecasted increase in COVID spread, and
4 Mr. Brown's personal health concerns, the parties anticipate asking the Court to consider
5 permitting Mr. Brown to satisfy his conditions of probation with out-patient substance abuse
6 treatment at a program that counsel has identified.

7 7. Given the aforementioned factors and concerns, the parties stipulate and request,
8 pursuant to 18 U.S.C. § 3563(c) and Federal Rule of Criminal Procedure 32.1(c), that the Court
9 modify the Defendant's conditions of probation, to temporarily postpone admittance to an in-
10 patient substance abuse treatment program until Mr. Brown's next status hearing, currently set
11 for November 19, 2020. On that date, counsel anticipates presenting the Court with a detailed
12 proposal for Mr. Brown to satisfy the terms of his probation with participation in an established
13 outpatient substance abuse treatment program.

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15 Respectfully submitted,

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17 HEATHER E. WILLIAMS
Federal Defender

18 Date: October 29, 2020

/s/ Matthew Lemke

MATTHEW LEMKE
Assistant Federal Defender
Attorney for Defendant
ROGER BROWN

21
22 MCGREGOR SCOTT
United States Attorney

23
24 Date: October 29, 2020

/s/ William Taylor

WILLIAM TAYLOR
Special Assistant United States Attorney

ORDER

IT IS SO ORDERED. For the reasons set forth above, the Court GRANTS the parties' request to modify the terms of Roger Brown's probation until the matter can be further addressed on November 19, 2020.

IT IS SO ORDERED.

Dated: **October 30, 2020**



UNITED STATES MAGISTRATE JUDGE